

Remarks/Arguments

Applicants respectfully request reconsideration of the rejection of the claims in view of the remarks set forth below. Claims 1, 3-14 and 16-20 remain in the application. Claims 2 and 15 were previously canceled. Claims 1, 3-8, 14 and 16-20 were previously presented. Claims 9-13 are unchanged.

35 U.S.C. §112

Claim 1, 8 and 14 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, Examiner asserts that the feature “where the least one program is provided using a first conditional access system when the at least one program is offered at the first price and where the at least one program is provided using the first conditional access system and a second conditional access system when the at least one program is offered at the second price,” has not been disclosed on the specification. (Office Action, page 2)

The Office Action states “there is no explicit disclosure which links or reasonably suggests applying either a layered or non-layered conditional access system to the content depending on the price at which the content is being resold.” (Office Action, page 3)
Applicant respectfully disagrees.

Subsequent to the portion of the Specification cited by Examiner, the Specification states:

“If the channel is a Pay Per View video channel and the Mini-Headend unit operator does not wish to alter the digital data provider's price for the channel, the channel is forwarded back to NSTB without any additional restrictions in block 68. In this case, in block 70, the NSTB's internal system for selling Pay Per View video will block the video with a purchase offer until the user agrees to purchase the video. [...]

If the channel is a premium video reselling channel or a Pay Per View video channel for which the Mini-Headend **operator wishes to modify the price**, the **video is forwarded to the NSTB along with a purchase offer** in block 66. In this embodiment, the **purchase offer price is set by the Mini-Headend unit operator**. When the NSTB receives the purchase offer, it displays the purchase offer instead of the requested channel. One method of doing this is to replace the premium channel or Pay Per View channel video with an On Screen Display (“OSD”). The **purchase offer replaces the video** and informs the user that the channel is available for purchase. The user then has the option of purchasing the channel in block 72.”
(Specification, page 7, line 22 through page 8, line 3, emphasis added)

Thus, the use of two prices is disclosed, namely, the digital data provider’s price and the modified price. For the first price, the digital data provider’s price, a first conditional access system, utilizing the NSTB’s internal system for blocking, is used. For the second price, an offer price set by the Mini-Headend unit operation, the channel is transmitted to the NSTB with a purchase offer that blocks the video, as also described in element 66 of Figure 2.

It is therefore respectfully submitted that the identified feature is supported by the specification. It is therefore further submitted that the rejection has been satisfied and should be withdrawn.

35 U.S.C. §103

Claims 1 and 3-13, stand rejected under 35 U.S.C. §103(a) as being unpatentable over Stoel et al. (U.S. Patent No. 5,905,942, hereinafter referred to as “Stoel”), in view of Hendricks et al. (U.S. Patent No. 7,207,055, hereinafter referred to as “Hendricks”), further in view of Perlman (U.S. Publication No. 2006/0294540).

Claims 14 and 16-20, stand rejected under 35 U.S.C. §103(a) as being unpatentable over Stoel, Hendricks, and Perlman, further in view of Vigarie (U.S. Patent No. 6,307,939).

It is respectfully asserted that none of Stoel, Hendricks, Perlman, or Vigarie alone or in combination disclose or suggest a system:

“wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility at either a first price set by the program provider where the at least one program is provided using a first conditional access system or at a second price set by the headend unit where the at least one program is provided using the first conditional access system and a second conditional access system,”

as described in claim 1.

Stoel discloses “an audio/video distribution system for a multiple dwelling unit such as an apartment building provides programming which is selectable by a subscriber through the interactive use of on-screen menus. Programming and services are supplied from a headend over a distribution network to individual apartments. The distribution network includes an interdiction field unit associated with each of a group of apartments. The interdiction field unit normally interdicts those channels capable of carrying video on demand movies, interactive video games, and interactive services. When a subscriber wishes to order a movie, video game, or other service through interactive on-screen menus provided from the headend to the apartment, the headend instructs the interdiction field unit associated with the subscriber's apartment to de-interdict a channel. Selections made through a remote control to a subscriber terminal in the apartment are supplied to the

headend over the distribution system. The channel remains deinterdicted during the playing of a movie, video game, or interactive service selected by the subscriber, based upon the signals received from the subscriber terminal during the interactive on-screen menu session.” (Stoel Abstract)

As admitted in the Office Action, “Stoel fails to explicitly disclose that a headend unit is adapted to offer programs to users at a first price set by a program provider or at a second price set by the headend unit.” (Office Action, page 4) As also admitted in the Office Action, “Stoel and Hendricks are silent to explicitly disclose that the at least one program is provided using a first conditional access system *or* the at least one program is provided using the first conditional access system and a second conditional access system.” (Office Action, page 5) Thus, Stoel does not disclose a system “wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility at either a first price set by the program provider where the at least one program is provided using a first conditional access system or at a second price set by the headend unit where the at least one program is provided using the first conditional access system and a second conditional access system,” as described in claim 1.

Hendricks teaches “a method of allocating bandwidth for a television program delivery system. This method selects specific programs from a plurality of programs, allocates the selected programs to a segment of bandwidth, and continues to allocate the programs until all the programs are allocated or all of the available bandwidth is allocated. The programs may be selected based on a variety of different factors or combination of factors. The selected programs may also be prioritized so that higher priority programs are distributed before lower priority programs in case there is not enough bandwidth to transmit all of the programs. This invention allows a television program delivery system to prioritize a large number of television programs and distribute these programs based on their priority levels. The invention also permits a television program delivery system to dynamically allocate bandwidth over time or based on marketing information, such as consumer demand.” (Hendricks Abstract)

Again, as admitted in the Office Action, “Stoel and Hendricks are silent to explicitly disclose that the at least one program is provided using a first conditional access system *or*

the at least one program is provided using the first conditional access system and a second conditional access system.” (Office Action, page 5)

Furthermore, Hendricks states, “The PRICE CATEGORY Database file 506 contains price category records with each record representing a valid price category. Price categories are used to provide pricing consistency throughout the system. It also provides flexibility at the headend 208 to price various categories differently should this be desired. For example, distributed movies may be assigned the price category "movie" at the national site. Each headend 208 could then charge differing amounts for their movies by manipulating their local price category database. If a current price structure needed to be changed, the change would be made once in the price category database instead of in each program record.” (Hendricks, column 29, lines 20-31)

While Hendricks suggests a different price may be set at a headend via a database change, Hendricks does not suggest the use of one conditional access system for a default price and the addition of a second conditional access system to enforce a locally set price. Thus, Hendricks, like Stoel, does not disclose a system “wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility at either a first price set by the program provider where the at least one program is provided using a first conditional access system or at a second price set by the headend unit where the at least one program is provided using the first conditional access system and a second conditional access system,” as described in claim 1.

Perlman describes “a method for efficiently transmitting several multimedia streams to one or more multimedia receivers comprises transmitting a first plurality of channels within a first plurality of frequency blocks having a first frequency range, said first frequency range being the range to which a legacy group of multimedia receivers are capable of tuning; and simulcasting said first plurality of channels within one or more alternate frequency blocks having an alternate frequency range, said alternate frequency range being the range to which an alternate group of multimedia receivers are capable of tuning.” (Perlman Abstract) The Office Action asserts that Perlman discloses “that the at least one program is provided using a first conditional access system or the at least one program is provided using the first conditional access system and a second conditional

access system (Paragraphs [0076] [0079] [0104]; simulcasting content using either a first standard encryption scheme, i.e. DE8, or a second encryption scheme).” (Office Action, page 5)

In Perlman, however, the same program is provided twice, via different channels or streams, each with only one of the two different encryption/compression systems. Perlman does not, however, describe a system as described in claim 1 wherein both conditional access systems are applied to the same program. Perlman also fails to disclose or suggest the use of one conditional access system for a default price and the addition of a second conditional access system to enforce a locally set price. Thus, Perlman, like Hendricks and Stoel, does not disclose a system “wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility at either a first price set by the program provider where the at least one program is provided using a first conditional access system or at a second price set by the headend unit where the at least one program is provided using the first conditional access system and a second conditional access system,” as described in claim 1.

Vigarie teaches “a method and an equipment for allocating to a television program, which is already conditionally accessed, a complementary conditional access. The television program is first received by means provided with access entitlements and the control words are restored. Complementary access control messages and complementary entitlement management messages corresponding to a complementary access control system are built up. The initial unmodified television program is rebroadcast, together with the complementary messages related to the complementary access control system.” (Vigarie Abstract)

Vigarie also does not disclose the use of one conditional access system for a default price and the addition of a second conditional access system to enforce a locally set price. Thus, Vigarie, like Perlman, Hendricks, and Stoel, does not disclose a system “wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility at either a first price set by the program provider where the at least one program is provided using a first conditional access system or at a second price

set by the headend unit where the at least one program is provided using the first conditional access system and a second conditional access system,” as described in claim 1.

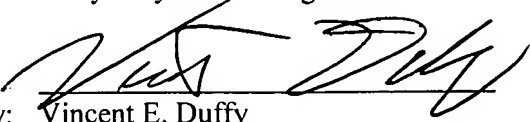
In view of the above remarks, it is respectfully submitted there is no 35 USC 112 enabling disclosure provided by Stoel, Hendricks, Perlman, or Vigarie, alone or in combination, which makes the present invention as claimed in claim 1 unpatentable under 35 USC 103. It is further submitted that independent claims 8 and 14 are allowable for at least the same reasons that claim 1 is allowable. Since dependent claims 3-7, 9-13, and 16-20 are dependent from allowable independent claims 1, 8, and 14, it is submitted that they too are allowable for at least the same reasons that their respective independent claims are allowable. Thus, it is further submitted that this rejection has been satisfied and should be withdrawn.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's representative at (818) 480-5319, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fee is believed due. However, if a fee is due, please charge the additional fee to Deposit Account 07-0832.

Respectfully submitted,

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I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

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Date


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